



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING

Held on
January 22, 2007

Meeting Location: Weston & Sampson Engineers, Inc.
Five Centennial Drive
Peabody, Mass.

Prepared by: A. Fierce

[Approved: March 5, 2007]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 3:07 p.m. The other Board members present were Gail Batchelder, Kirk Franklin, Robert Luhrs, Debbie Phillips, and Kelley Race. Board members Deborah Farnsworth, Christophe Henry, Gretchen Latowsky, Paul Mullen, and Debra Stake were absent. The LSP Board staff members present were Allan Fierce, Terry Wood, Lynn Read, Jan Reitsma, and Brian Quinlan. No visitors were present.
2. **Announcements:**
 - Mr. Luhrs announced that he needed to leave the meeting at about 3:15. Ms. Commerford noted that the Board would no longer have a quorum when Mr. Luhrs leaves the meeting.
 - Mr. Fierce noted that a new Board/staff address list had been distributed in the Packets. He asked Board members for any changes in their cell phone numbers.
3. **Agenda:** The Board agreed to abbreviate the agenda by taking up only the matters listed below.
4. **Minutes:** The Board reviewed the draft minutes for the meeting of the Board held on December 20, 2006. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
6. **Decisions Regarding License Applicants:** The staff presented the following Application Docket:

Docket No. 1: The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record:

			<u>ARP</u>	<u>REC.</u>
Cynthia Gilchrist	Common Sense Environmental	#2689	198	D

No members were recused.

A motion was made and seconded that the recommendation from ARP #198 be accepted, i.e., that the application submitted by Ms. Gilchrist be denied for the reasons set forth in the draft denial letter and that she be found ineligible to take an exam. The motion was approved unanimously.

8. **License Renewal Applications:** The staff presented the following License Renewal Dockets:

Renewal Docket #1

License lapsed on Jan. 30, 2006.

Had one year to renew.

Has completed all requirements for renewal.

New Renewal Date: January 30, 2010

1. McLoughlin II, Joseph R. #2039

Renewal Docket #2

Renewal Date: January 30, 2007

Have completed all requirements for renewal.

New Renewal Date: January 30, 2010

1. Seigel, Gary #1523
2. Smith, Kenneth #7380
3. Worthy III, Cole E. #6812

Renewal Docket #3

Renewal Date: October 30, 2006

Granted 90-day extension to 1/28/07

Have completed all requirements for renewal.

New Renewal Date: October 30, 2009

1. Gitten, Michael #7505
2. Loitherstein, Joel S #6815

A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1, #2, and #3 for a three-year period ending on the dates indicated. The motion was approved unanimously.

9. Other Licensing-Related Matters:

- A. New Panel Assignments and Scheduling.** Mr. Quinlan announced that no new applications had been filed in the past month; therefore, there was no need to form any new Application Review Panels.
- B. Appeals Status Report.** The staff reported that applicant Peter DeChaves has appealed the denial of his license application. In response to this information, the Board formed an Appeals Review Panel to (a) review Mr. DeChaves appeal petition, his application, and the denial decision letter and (b) report back to the Board at the next meeting with its recommendation whether Mr. DeChaves has raised any concerns in his appeal papers that would warrant reconsidering the Board's decision before sending the appeal to DALA for an adjudicatory proceeding. The members of this panel are Mr. Henry, Ms. Latowsky, and Ms. Stake.

10. Continuing Education Committee Report:

- A. Course Approval Requests:** Ms. Batchelder reported that the Committee had met earlier in the day and had voted to make the following recommendation to the full Board:

Sponsor: LSP Association

Course Title: Environmental Law for the Licensed Site Professional

Credits Requested: 4 non-DEP Regulatory credits

Committee Recommendation: **Approve for 1 Regulatory credit.** The Committee found that no more than one hour of this 4-hour course contains content that meets the definition of "Regulatory" in the Board's regulations.

A motion was made and seconded to accept the Committee's recommendation. The motion was approved unanimously.

- B. Waiver Requests:** Ms. Batchelder reported that the Committee had also reviewed the following two requests for waiver of the Board's regulatory time limit on obtaining the continuing education credits needed to renew one's license.

Terence Regan (#3352): Mr. Regan submitted a letter dated 1/7/07 requesting that he be allowed additional time beyond his 90-day extension deadline of January 28, 2007, to obtain the 4 DEP/Regulatory credits he needs to renew his license. He explained in the letter that in October, when he was granted a 90-day extension, he needed 5 DEP/Regulatory credits. He said he was able to take a 1-credit DEP Course in early November, but no other DEP Courses have been offered since then. He said that it was his understanding that the next

DEP Course would not be offered until March 2007, and that course will be a repeat of the 2005 Audits course, which he had already taken. As a result, he claims, "I will have to wait at least two months, and possibly up to several months, before I even have the possibility of taking a 4-credit DEP course." He also asserted that for two DEP Courses worth 4 credits each, he was put on a waiting list and was not allowed to attend. He stated: "I understand that it is my responsibility to take the appropriate courses and keep my license in good standing, and in hindsight I would have tried to take some of the course offerings earlier during the renewal period had I known how infrequent or inconvenient the subsequent offerings would be." He also stated that he is a sole-proprietor, and the loss of his license for a period of more than two months "would cause a severe economic hardship."

In reviewing Mr. Regan's waiver request, the Committee also examined his Course Summary Form, which indicated that the only DEP Courses Mr. Regan took prior to his 90-day extension were both in October 2006, the month in which his license was set to expire. The Committee also reviewed a table prepared by Mr. Wyman listing all the DEP Courses available between October 2003 and October 2006.

Ms. Batchelder stated that, as a result of the Committee's review, it had voted unanimously to recommend to the full Board that Mr. Regan's waiver request be denied for failing to meet the requirements of 309 CMR 2.12, because Mr. Regan had failed to present sufficient "good cause" to warrant a further extension beyond 90 days. He had not indicated that his failure to take any DEP Courses earlier in his renewal period was sufficiently beyond his control or more difficult than for any of the other 42 members of his renewal group who were able to obtain sufficient DEP Course credits.

A motion was made and seconded to accept the Committee's recommendation to deny Mr. Regan's waiver request for the reasons stated. The motion was approved unanimously.

[Ms. Phillips announced that she was recused in connection with the next waiver request, and she left the room.]

Richard Hughto: Mr. Hughto submitted a letter dated 1/8/07 also requesting that he be allowed additional time beyond his 90-day extension deadline of January 28, 2007, to obtain the 4 DEP/Regulatory credits he needs to renew his license. He wrote in the letter that since obtaining a 90-day extension, no DEP Courses worth 4 credits have been offered. He stated that he had completed a total of 48 hours of training since his prior renewal. He also stated: "Being a sole practitioner and having a number of court-imposed deadlines and appearances often makes it difficult to attend training courses. That and the limited number of DEP Courses is the reason I fell short of the required number of DEP Course hours."

In reviewing Mr. Hughto's waiver request, the Committee also examined his Course Summary Form, which indicated that the only DEP Courses Mr. Hughto took prior to his 90-day extension were in April and October of 2006. The Committee also reviewed the table

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prepared by Mr. Wyman (noted above) listing all the DEP Courses available between October 2003 and October 2006.

Ms. Batchelder stated that, as a result of the Committee's review, it had voted unanimously (with Ms. Phillips recused) to recommend to the full Board that Mr. Hughto's waiver request be denied for failing to meet the requirements of 309 CMR 2.12, because Mr. Hughto had failed to present sufficient "good cause" to warrant a further extension beyond 90 days. He had not indicated that his failure to take DEP Courses earlier in his renewal period was sufficiently beyond his control or more difficult than for any of the other 42 members of his renewal group who were able to obtain sufficient DEP Course credits.

Mr. Fierce noted that 309 CMR 2.12 requires the "affirmative vote of at least a majority of the Board members" to either approve or deny a waiver petition. Therefore, with only five Board members present in the room, no vote could be taken at this meeting to either approve or deny Mr. Hughto's waiver request.

A motion was made and seconded to table action on the Committee's recommendation to deny Mr. Hughto's waiver request for the reasons stated. The motion was approved unanimously. The members agreed to take up this matter at the next meeting.

[Ms. Phillips returned and rejoined the meeting.]

At this point in the meeting, Mr. Luhrs announced that he had to leave, and he left the room.

Ms. Commerford noted the absence of a quorum.

11. Adjournment: The meeting was adjourned at 3:15 p.m.